

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
CLERK'S OFFICE

2004 NOV 29 P 3:30

BRANDON ASSOCIATES, LLC,  
Plaintiff,

U.S. DISTRICT COURT  
DISTRICT OF MASS.  
CA#: 04-12013NMG

v.

FAILSAFE AIR SAFETY SYSTEMS, CORP.,  
BLUE SAGE CONSULTING, INC.,  
ELCON MEDICAL, DEBRA  
ESPE and ALAN FEURSTEIN,  
Defendants. /

AFFIDAVIT

I Robert N. Wilson, Jr., under oath do depose and say:

- 1) I am an attorney in good standing, with a principal place of business of 46 Washington Street, P.O. Box 633, Ayer, MA 01432;
- 2) I am the attorney for Blue Sage Consulting, Inc. a Massachusetts corporation with a principal place of business located at 6 Hearthstone Road, Hopkinton, MA;
- 3) Upon information and belief, the Defendant, Blue Sage Consulting, Inc. has been named as a Defendant for the sole purpose of destroying diversity of citizenship;
- 4) The Plaintiff, Brandon Associates, LLC is aware that their amending the original complaint creates a situation where there is a complete lack of diversity, having pleaded the citizenship of Blue Sage in Paragraph 3 of the Amended Complaint;
- 5) The Defendant, Blue Sage Consulting, Inc. has been named, apparently, based upon the fact that Blue Sage Consulting, Inc. is a holder of a five (5%) percent equity stake in the Defendant, Failsafe Air Safety Systems, Corp., given that there is no other mention of Blue Sage in the Amended Complaint other than in the aforementioned Paragraph 3 and Paragraph 63;
- 6) The failure to state any other basis for the Defendant, Blue Sage's inclusion in the action has caused Blue Sage to expend significant sums for the defense of a frivolous action, which is wholly without merit;
- 7) The actions of Brandon Associates, LLC have further created a situation where the Defendant, Blue Sage Consulting has been forced to retain counsel and defend

a frivolous action based upon a lack of diversity and the failure to state a cause of action upon relief can be granted, thus incurring significant legal expense;

- 8) There is no likelihood that the Plaintiff, in naming the Defendant in the Amended Complaint did so for any other reason but to destroy Diversity Jurisdiction;
- 9) The actions of Brandon Associates, LLC in naming the Defendant, Blue Sage Consulting, Inc., was done in bad faith;
- 10) The Complaint should be dismissed as to Blue Sage, with prejudice, and with costs and attorney fees.



---

Robert N. Wilson, Jr., Esquire  
BBO #: 558374  
46 Washington Street  
P.O. Box 633  
Ayer, MA 01432-0633  
(978) 772-9014

Dated: November 26, 2004

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BRANDON ASSOCIATES, LLC,  
Plaintiff,

CA#: 04-12013NMG

v.

FAILSAFE AIR SAFETY SYSTEMS, CORP.,  
BLUE SAGE CONSULTING, INC.,  
ELCON MEDICAL, DEBRA  
ESPE and ALAN FEURSTEIN,  
Defendants.

APPEARANCE OF COUNSEL

To the Clerk of Court, kindly enter my appearance as counsel for the Defendant,  
Blue Sage Consulting, Inc.




Robert N. Wilson, Jr.  
BBO# 558374  
Law Offices of Robert N. Wilson, Jr.  
46 Washington Street  
P.O. Box 633  
Ayer, MA 01432

Dated: October 18, 2004

CERTIFICATE OF SERVICE

I, Robert N. Wilson, Jr., hereby certify that I caused a true copy of the above document to be served upon the attorney of record for each of the other parties in this action by hand or US Mail, postage paid, this 26<sup>th</sup> day of November 2004.

I further certify that I am over the age of eighteen (18) and not a party to this action.



Robert N. Wilson, Jr.